

MARLON BOWLES

Plaintiff,

VS.

ABBVIE INC.,

Defendant.

Cause No: 1:20-cv-07413

**PLAINTIFF’S MOTION FOR ENLARGEMENT OF TIME TO RESPOND TO
DEFENDANT ABBVIE INC.’S MOTION TO DISMISS**

COMES NOW, Marlon Bowles, Plaintiff in the above entitled and numbered cause and files his Motion for Enlargement of Time to Respond to Defendant AbbVie, Inc.'s Motion to Dismiss [Dkt. #23]. In support thereof, Plaintiff would respectfully show unto the Court the following:

1. On March 18, 2021, this Court issued an Order directing Plaintiff to submit a statement by April 30, 2021, clarifying the citizenship of unknown entities names in Plaintiff's Complaint [Dkt. #25]. On March 18, 2021, Defendant filed its Motion to Dismiss Plaintiff's First Amended Complaint [Dkt. #23] ("Motion to Dismiss"). In accordance with Notification of Docket Entry [Dkt. #19 and Dkt. #16], Plaintiff's response is due April 19, 2021. On April 13, 2021, Plaintiff filed his Motion for Leave to File Second Amended Complaint and Plaintiff's Statement in Response to Court's Order Regarding Defendants AbbVie 1-100 and Abbott 1-100 [Dkt. #29] ("Motion for Leave") to both eliminate the unknown entities and address specific pleading issues raise in the Motion to Dismiss. The parties agreed to a briefing schedule for the Motion for Leave

as noted in a Docket Text Entry by the Court on April 15, 2021 [Dkt. #30].

2. If the Motion for Leave is granted, Defendant's Motion to Dismiss Plaintiff's First Amended Complaint will be supplanted by Plaintiff's Second Amended Complaint, Defendant's Motion to Dismiss will be moot, and no response to the Motion to Dismiss Plaintiff's First Amended Complaint will be necessary. To avoid spending potentially unnecessary resources and time in the event the Motion for Leave is granted, Plaintiff requests that his time to respond to Defendant's Motion to Dismiss be moved to seven days after the Court rules on the Motion for Leave.

3. On April 15, 2021, via email, counsel for Plaintiff and Defendant discussed this request for enlargement of time, and Defendant indicated it will oppose the motion. Such opposition is contrary to the statement affirmed by Defendant's counsel in his Motion for Leave to Appear Pro Hac Vice, in which counsel agreed to "faithfully adhere" to the Standards for Professional Conduct within the Seventh Federal Judicial Circuit. [Dkt #12]. The Seventh Circuit's Standards for Professional Conduct require counsel to "agree to reasonable requests for extensions of time and for waiver of procedural formalities, provided our client's legitimate rights will not be materially or adversely affected." LR83.50. It is clear that agreeing to the requested delay in responding to a potentially moot motion to dismiss would not materially or adversely affect the Defendant's right. Further, this Court is authorized to grant such enlargement of time by Fed. R. Civ. P. Rule 6(b)(1)(A), which says, "When an act may or must be done within a specified time, the court may, for good cause, extend the time with or without motion or notice if the court acts, or if a request is made, before the original time or its extension expires."

For the reasons discussed above, Plaintiff respectfully requests that the Court grant Plaintiff's Motion for Enlargement of Time to Respond to Defendant AbbVie Inc.'s Motion to Dismiss Plaintiff's Motion for Enlargement of Time to Respond to Defendant AbbVie Inc.'s Motion to Dismiss

Dismiss.

Dated: April 16, 2021

RESPECTFULLY SUBMITTED,

VAN WEY, PRESBY & WILLIAMS, PLLC

BY: /s/ Ellen A. Presby

Ellen A. Presby (admitted *pro hac vice*)

Texas Bar No. 16249600

Susan Allen (admitted *pro hac vice*)

Texas Bar No. 01059350

Emma C. Martin

Texas Bar No. 24104999

12720 Hillcrest Road, Suite 600

Dallas, Texas 75230

(214) 329-1350 Phone

(800) 582-1042 Facsimile

courtfilings@vwpwlaw.com

ellen@vwpwlaw.com

susan@vwpwlaw.com

emma@vwpwlaw.com

AND

THE LAW OFFICE OF KEITH ALTMAN

BY: /s/ Keith Altman

Keith Altman (admitted *pro hac vice*)

California Bar No. 257309

33228 W. 12 Mile Road, Suite 375

Farmington Hills, MI 48334

(516) 456-5885 Phone

kaltman@lawampmmt.com

COUNSEL FOR PLAINTIFF

CERTIFICATE OF CONFERENCE

Counsel for Plaintiff, Ellen Presby, has conferred with Counsel for Defendant regarding the substance of this Plaintiff's Motion for Enlargement of Time to Respond to Defendant AbbVie Inc.'s Motion to Dismiss. Counsel for Defendant AbbVie Inc. is opposed to Plaintiff's Motion for Enlargement of Time to Respond to Defendant AbbVie Inc.'s Motion to Dismiss.

/s/ Ellen A. Presby
Ellen A. Presby